

CITY OF MORGAN HILL  
JOINT REGULAR REDEVELOPMENT AGENCY AND  
SPECIAL CITY COUNCIL MEETING  
MINUTES - MARCH 28, 2001

**CALL TO ORDER**

Chairman/Mayor Kennedy called the regular and special meeting to order at 7:00 p.m.

**ROLL CALL ATTENDANCE**

City Council

Present: Agency/Council Members Carr, Chang, Sellers, and Mayor/Chairman Kennedy  
Absent: Agency/Council Member Tate

Planning Commission

Present: Commissioners Lyle, McMahon, Mueller, Pinion, Ridner, Sullivan  
Absent: Commissioner Kennett

**DECLARATION OF POSTING OF AGENDA**

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT**

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on the agenda.

Randy Wright informed the City Council that he has spoken with Planning staff regarding the removal of approximately 50-75 oak trees from development occurring adjacent to him. He stated that he requested that staff show him the final conditions of final map approval for this development. He was shown what was represented to be the final conditions. He wrote a letter to the City Attorney, at the direction of planning staff, on February 15, 2001. He pointed out in his letter that one of the conditions, among others, that there is to be no building on a ridgeline. He contacted the City Attorney who indicated that she would respond to him in writing. He said that he waited approximately one month for a response and that additional grading continued to occur. He indicated that he received a response from the City Attorney last Tuesday and that the City Attorney is contending that there is a development agreement with the contractor that allows him to develop on the ridgeline. He did not believe that this was the case. He stated that the tentative map approved by the Planning Commission included an expressed condition that there is to be no construction on the ridgeline. He said that the tentative map was incorporated by reference into the development agreement and felt that the condition applied to the developer. He felt that the condition prohibits

the developer from building on the ridgeline but yet he is building on the ridgeline. He also addressed the Hillside Ordinance by stating that if a development agreement is not in place, the developer would be subject to the current Hillside Ordinance. He said that the City Attorney has taken the position that the ridgeline is the highest hill that you can see from some given flat spot. She based this position on a coastal commission statute that expressly defines what a ridge is. He did not believe that this definition has anything to do with the City's Hillside Ordinance. The City Attorney also states that city staff has determined that the location of the home on the ridgeline is the only suitable place on the property that he can build upon.

Mayor Kennedy informed Mr. Wright that the City Council cannot take action on this issue this evening as the issue is not an agenda item. He stated that the Council has a sense of the problem. He informed Mr. Wright that the Council will have staff address his concerns and get back to him. He indicated that Mr. Wright is invited to contact any of the Planning Commissioners or City Council to discuss this issue in more detail.

Mr. Wright expressed concern that according to the law, once permits are issued and substantial construction has begun, there are no alternatives. He indicated that he has been advised that building permits have not been issued, noting that framing is occurring openly on the lot. He indicated that should this matter be scheduled for a city council meeting, many neighbors would be in attendance.

Joe Varda, 18655 Castle Lake Drive, stated that the oak trees that have been cut have been dumped within 15 feet from his property line, resulting in mud accumulating on his site. He informed the City Council that he is an architect and developer and that he has never seen someone do such an extensive operation without taking measures to prevent erosion control. He invited the Council to visit his driveway where mud has accumulated. He felt that the matter is urgent and that it be looked at very quickly.

No further comments were offered.

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

***Action:***        *On a motion by Vice-chairman Carr and seconded by Agency Member Chang, the Agency Commission, on a 4-0 vote with Agency Member Tate absent, approved Consent Calendar Item #1 as follows:*

#### **1.     FEBRUARY 2001 FINANCE AND INVESTMENT REPORT**

***Action:***    *Accepted and filed report.*

## ***City Council Action***

### **CONSENT CALENDAR:**

***Action:***        *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Sellers,*

*the City Council, on a 4-0 vote with Council Member Tate absent, approved Consent Calendar Item 2 as follows:*

2. **PROPOSED AMENDMENT TO THE CITY'S CONFLICT OF INTEREST CODE - Resolution No. 5463**  
**Action: Adopted** Resolution No. 5463 Amending the City's Conflict of Interest Code.

## ***City Council & Planning Commission Action***

### **OTHER BUSINESS:**

3. **UPDATED GENERAL PLAN AND ENVIRONMENTAL IMPACT REPORT (EIR)**

Director of Community Development Bischoff presented the staff report. He informed the City Council and Planning Commission that Charlie Knox, Crawford, Multari and Clark, whose firm was responsible for helping the General Plan Task Force develop amendments to the General Plan; Wayne Shoji, CCS Engineering, who will address the traffic section of the General Plan; and Erin Banks, Design, Community and Environment, the primary author of the EIR, were present to walk them through the draft General Plan and the EIR. He indicated that he would address the process at the conclusion of the presentation.

Mr. Knox addressed highlights of the General Plan, including public input and requests from property owners to amend the general plan.

The City Council and Planning Commission conducted an interactive work study session on the General Plan and the Environmental Impact Report. Discussed were the following: land use patterns; define greenbelt located south of Tennant Avenue, east of Highway 101 and its future; feathering (decreasing the residential density as you get to the north/south edges of the city); identify gateways (though signage or art work); ease future traffic loads on Monterey and Santa Teresa; finish streets; better connect neighborhoods; making routes to schools and businesses more efficient; cut down emergency response time if streets are finished; bikeway plan - better access to creeks, county trails, schools and commercial area; enhance and improve the bus service; encourage extension of light rail to the city, providing another way of commuting; Monterey Road corridor - clustering retail uses; downtown design, theme and mixed uses; update Downtown Design Plan; transient district - use of RDA funds to encourage competition and/or preliminary design of a downtown transit district; establishment of minimum/specific standards and/or set asides for the development of a downtown transit district, Measure P rate of growth (250 homes per year to 2020 at population of 46,600); importance of housing/jobs balance; limit sprawl on hillside areas; mitigate visual impacts of additional housing; concern from the community that too many homes are being built annually; commercial development - redevelopment of existing commercial center(s); freeway access and accessibility to commercial centers; need of 200-300 acres of industrial land; and update of the South County Joint General Plan.

Mr. Shoji addressed and highlighted the differences between the current General Plan and the

proposed General Plan update. Taken into account were land use changes, changes in regional travel, desired levels of service standards all aiming toward a comprehensive, and tied together circulation plan. He noted substantial changes in the regional traffic expected to flow through the area. He highlighted the following changes: Highway 101 was previously assumed to be eight lanes at build out. Now, it is being encouraged that Highway 101 be as large as needed (10 lanes); if Highway 101 left at eight lanes, it will shuffle more of the traffic onto local roads; Butterfield Boulevard has been identified as a major north/south road and planned at six lanes; Santa Teresa at build out is still proposed at 2-4 lanes; Murphy and St. Louise identified as four lanes; regional traffic using Santa Teresa and Monterey corridors; City is encouraging regional traffic to use Butterfield Boulevard; intersection levels of service; focus on getting Highway 101 widened to 8 lanes from Cochrane south of Morgan Hill; need for establishment of a timeline of special study areas; schedule of the traffic impact fees study; update of the mass transit policies to reflect the possibility of light rail being extended south to Morgan Hill, and reflect changes in Caltrain services.

Erin Banks walked the City Council and the Planning Commission through the EIR and the impacts identified as a result of the implementation of the General Plan. The two factors looked at in the EIR were aesthetics and mineral resources, noting that agricultural resources were discussed briefly.

The following were noted: Poppy Jasper was not discussed as a mineral resource to be protected; impact of development from adjacent cities to Morgan Hill (e.g., development of Coyote Valley); build up of industrial jobs in Morgan Hill and pressure of housing and traffic to surrounding communities who commute to Morgan Hill needs to be included as a separate discussion as an impact; look at the impact of 300 acres of industrial land on power requirements; concern that properties would be considered historical properties 50 years from now; evaluate the impact of 660 acres of industrial land to be built south of Morgan Hill and causing traffic in other directions than projected; and that the city will not be able to meet the air quality standards (city will need to adopt a statement of overriding consideration).

Mr. Bischoff informed the City Council that a community workshop will be held next Thursday to provide the public with an opportunity to ask questions on the proposed general plan. Two Planning Commission hearings are tentatively scheduled for April 17 and May 15 and by the City Council on May 30 and June 13. If there are changes identified to the General Plan, it would be appropriate that requests be made through the public hearing process.

City Manager Tewes stated that it would be helpful if individuals have comments on the draft EIR that the technical changes be identified. He indicated that this is a draft document for public review and that the General Plan can only be adopted after a public hearing. The City needs to be careful about whether the comments are on a different policy versus identifying an incorrect statement.

Mayor Kennedy addressed the following: page 10, third paragraph states that "Small high tech support firms and manufacturing plants comprise the majority of industrial land use in Morgan Hill." He did not believe that the statement is correct as there are existing companies such as Abbott, Anritsu, Media Arts, Erricsons, and Cidco with other companies coming in, noting that these are not small, high-tech support firms. He felt that this was a misleading statement. Page 49, Efficient Wastewater Treatment - he recommended that a statement be included that encourages recycling of

the City's treated wastewater. Page 57, Tourism states "... although it is not an objective of the City to become a tourist destination . . . ." He felt that this is too strong a statement and recommended that it be replaced with a statement that indicates that tourism is beneficial to the City's healthy economy.

Council Member Carr felt that it should be stated that it is more about regional tourism versus Morgan Hill becoming a tourist destination.

**Actions:**                      *The City Council and Planning Commission **Received** the Summary Presentation of General Plan Update and Associated EIR.*

## ***City Council & Redevelopment Agency Action***

### **CLOSED SESSIONS:**

City Attorney Leichter announced the following closed session items:

#### **1.**

##### **CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8, 54956.9(b), & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the south westerly side of Road (St. Louise Hospital property)
City Negotiators:	City Council/Agency Members; City Manager/Executive Director; City Attorney/Agency Counsel; and Special Counsel
For Property Owner:	San Jose Christian College representatives
Closed Session Topic/Under Negotiations:	Potential Litigation & Price and Terms of Payment

#### **2.**

##### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code Section 54956.9(a)
Name of Case:	City of San Jose v. Morgan Hill Unified School District, City of Morgan Hill
Case Number:	Superior Court, County of Santa Clara CV794073

#### **3.**

##### **CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority:	Government Code 54956.9(B) (One Potential Case)
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### **OPPORTUNITY FOR PUBLIC COMMENT**

Chairman/Mayor Kennedy opened the closed session items to public comment. No comments were offered.

### **ADJOURN TO CLOSED SESSION:**

Chairman/Mayor Kennedy adjourned the meeting to closed session at 9:18 p.m.

**RECONVENE:**

Chairman/Mayor Kennedy reconvened the meeting at 11:20 p.m.

**CLOSED SESSION ANNOUNCEMENT:**

Agency Counsel/City Attorney Leichter announced that no reportable action was taken on the above listed closed session items.

**FUTURE AGENCY-INITIATED AGENDA ITEMS:**

No items were identified.

**ADJOURNMENT**

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 11:21 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**Irma Torrez, City Clerk**